

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

OMAR GRAYSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 09-cv-0335-MJR
	)	
HAROLD SCHULER,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

REAGAN, District Judge:

On May 4, 2009, Omar Grayson filed an action for deprivation of his constitutional rights pursuant to 42 U.S.C. § 1983. On August 30, 2010, the Court granted Defendant Harold Schuler's motion for summary judgment and that same day entered judgment in favor of Schuler and against Grayson (Docs. 44, 45). On September 27, 2010, Grayson filed a timely notice appealing that order and judgment to the Seventh Circuit Court of Appeals (Doc. 46).

The Court construed Grayson's notice of appeal to include a request for leave to proceed *in forma pauperis* on appeal. On October 19, 2010, the Court granted Grayson's motion for leave to proceed *in forma pauperis* on appeal (Doc. 55). On November 16, 2010, the Court ordered Grayson to pay the \$455.00 appellate filing fee, assessed an initial partial filing fee and directed that monthly payments be made from his prison trust account until the filing fee is paid in full (Doc. 57).

Grayson now moves the Court for relief from its order requiring him to pay the filing fee for his appeal, stating that he is no longer incarcerated and has no income with which to make payments (Doc. 59).

Because Grayson's action is on appeal, the Court lacks subject matter jurisdiction to consider his motion for relief and must deny it. The Court refers Grayson to *Robbins v. Switzer*, 104 F.3d 895 (7th Cir. 1997), a case that involved circumstances similar to his own: an inmate who was released after filing his appeal and the obligation for payment that attached to that appeal.

Accordingly, the Court **DENIES** Omar Grayson's motion for relief from Order (Doc. 59) for lack of subject matter jurisdiction.

**IT IS SO ORDERED.**

**DATED this 24th day of January, 2011**

**s/Michael J. Reagan**  
**MICHAEL J. REAGAN**  
**United States District Judge**